

SENATE BILL No. 44

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-2-1.5; IC 33-38-12-4.

Synopsis: Representation of judges in mandate litigation. Requires the attorney general to represent a court that has issued an order of mandate for funds for the operation of the court or court-related functions. Prohibits the state from reimbursing a judge for expenses incurred in employing a private attorney to represent the court in an action for mandate of funds.

Effective: July 1, 2009.

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January 7, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 44

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.78-2005,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 1.5. (a) Whenever any state governmental official
4 or employee, whether elected or appointed, is made a party to a suit,
5 and the attorney general determines that said suit has arisen out of an
6 act which such official or employee in good faith believed to be within
7 the scope of the official's or employee's duties as prescribed by statute
8 or duly adopted regulation, the attorney general shall defend such
9 person throughout such action.
10 (b) Whenever a teacher (as defined in IC 20-18-2-22) is made a
11 party to a civil suit, and the attorney general determines that the suit
12 has arisen out of an act that the teacher in good faith believed was
13 within the scope of the teacher's duties in enforcing discipline policies
14 developed under IC 20-33-8-12, the attorney general shall defend the
15 teacher throughout the action.
16 (c) Whenever a school corporation (as defined in IC 20-26-2-4) is
17 made a party to a civil suit and the attorney general determines that the

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1 suit has arisen out of an act authorized under IC 20-30-5-0.5 or
 2 IC 20-30-5-4.5, the attorney general shall defend the school corporation
 3 throughout the action.

4 (d) A determination by the attorney general under subsection (a),
 5 (b), or (c) shall not be admitted as evidence in the trial of any such civil
 6 action for damages.

7 **(e) The attorney general shall represent the judge of a court that**
 8 **has issued an order for mandate of funds under Indiana Trial Rule**
 9 **60.5.**

10 ~~(e)~~ (f) Nothing in this chapter shall be construed to deprive any such
 11 person of the person's right to select counsel of the person's own choice
 12 at the person's own expense.

13 SECTION 2. IC 33-38-12-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a) Except as**
 15 **provided in subsection (b),** the state shall pay the expenses incurred
 16 by a judge from a threatened, pending, or completed action or
 17 proceeding that arises from:

18 (1) making;

19 (2) performing; or

20 (3) failing to make or perform;

21 a decision, a duty, an obligation, a privilege, or a responsibility of the
 22 judge's office.

23 **(b) The state may not pay the expenses incurred by a judge in**
 24 **employing a private attorney to represent the court in an action for**
 25 **mandate of funds brought under Indiana Trial Rule 60.5.**

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